

52313

SERVICE DATE—OCTOBER 11, 2024

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36776]

CSX Transportation, Inc.—Trackage Rights Exemption—Norfolk Southern Railway Company

CSX Transportation, Inc. (CSXT), has filed a verified notice of exemption under 49 CFR 1180.2(d)(7) to acquire overhead trackage rights over two rail lines owned by Norfolk Southern Railway Company (NSR): (1) The Bay Route, between CP Bay, at or near milepost 91.9,¹ and the connection between NSR and CSXT, at or near milepost IP 0.41, a distance of approximately 2.8 miles, in Baltimore City, Md.; and (2) The Harrisburg Route, (a) between Lurgan, Pa. (at or near milepost LG 40.1/ HW 40.1), and Norristown, Pa., at CP Norris, Pa. (at or near milepost HP 18.0), a distance of approximately 148.3 miles; and (b) between CP Falls (at or near milepost HP 5.4) and a connection with CSXT's Philadelphia Subdivision at CP Laurel Hill (at or near milepost QA 2.9), a distance of approximately 0.5 miles (collectively, the Lines).

CSXT and NSR have agreed to two Form A Trackage Rights Addendums to their Master Trackage Rights Agreement for the overhead trackage rights.² According to the

¹ CSXT states that it will access the NSR line at CP Bay via rights that it has to operate over the National Passenger Railroad Corporation's Northeast Corridor.

² CSXT has filed executed, redacted versions of the addendums with the verified notice. CSXT has also submitted under seal executed, unredacted versions of the addendums and filed a motion for protective order. That motion is addressed in a separate decision.

verified notice, the purpose of the new trackage rights is to provide temporary alternate routes for CSXT trains while CSXT's Howard Street Tunnel in Baltimore, Md. (HST), is closed for a project that includes clearing the HST for double-stack rail passage. CSX states that, at certain times during the project, it will close the HST, and, during such closures, CSXT intends to reroute its current traffic over other CSXT lines and lines of NSR to continue to provide service to its customers whose traffic normally moves through the HST. CSXT further states that it will reroute the traffic using a combination of existing trackage rights and the new trackage rights that are the subject of this verified notice.³ According to the verified notice, CSXT and NSR have agreed that the new overhead trackage rights will terminate when the project is complete, the HST is reopened, and CSXT has begun to move rail traffic through the HST.⁴

This transaction may be consummated on or after October 26, 2024, the effective date of the exemption (30 days after the verified notice was filed).

As a condition to this exemption, any employees affected by the acquisition of the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

³ CSXT is also granting NSR overhead trackage rights over certain CSXT routes, for which NSR has sought authority in Norfolk Southern Railway—Trackage Rights Exemption—CSX Transportation, Inc., Docket No. FD 36790.

⁴ To allow the trackage rights to terminate at the time agreed to by CSXT and NSR, CSXT has concurrently filing a petition for partial revocation of this trackage rights exemption in CSX Transportation, Inc.—Trackage Rights Exemption—Norfolk Southern Railway Company, Docket No. 36776 (Sub-No. 1). The petition for partial revocation will be addressed in a subsequent decision in that subdocket.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than October 18, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36776, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on CSXT's representative, Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

According to CSXT, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: October 8, 2024.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.